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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,098	01/11/2002	Ronald E. Decker	4803-1	7541

22442 7590 08/21/2008

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EXAMINER	
TRAN, HANH VAN	
ART UNIT	PAPER NUMBER
3637	
MAIL DATE	DELIVERY MODE
08/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/044,098	DECKER, RONALD E.	
	Examiner	Art Unit	
	HANH V. TRAN	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12,13,15,17-21,23-30 and 33-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10, 12-13, 15, 17-21, 23-30, 33-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Upon further consideration, the following is a Non-Final Office action from the examiner in charge of the application.

Response to Amendment

2. The Declaration under 37 CFR 1.132 filed 5/13/2008 is insufficient to overcome the rejection of claims 1-10, 12-13, 15, 17-21, 23-30, 33-41 based upon 35 U.S.C. 103(a) as set forth in the last Office action because: The declaration fails to include an acknowledgment by the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

3. In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-7, 9-10, 12, 19-21, 23, 25-30, 33-35, 37-38, and 40-41 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Paradigm Industries, Inc., Photographs of a stand first offered for sale approximately September of 2001 (Paradigm Stand) in view of USP 849,403 Kiser and German 2,601,223 to Peddinghaus.

Paradigm Stand discloses a stand comprising a base, a support member interconnected to the base and extending upwardly therefrom, a support sleeve/slidable member having at least a top surface and in slidable telescopic cooperation with the support member, a lift platform associated with the top surface of the support sleeve, a coupling mechanism interconnected to the support sleeve/slidable member, an actuating lever interconnected to the coupling mechanism, a clevis interconnected to the base, at least one link member pivotally interconnected to the clevis and the actuating lever, and wherein the stand can be selectively positioned between a first position of rest and a second position of use. The different being that Paradigm Stand does not disclose the coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, a self-lubricating member, said self-lubricating member be either a sleeve or at least one strip, and a seal member.

Kiser teaches the idea of a height adjustable stand comprising two cylindrical support sleeves slidable relative to each other, a coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, an operating lever b9 pivotally mounted in the collar to adjust the height of the stand.

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Paradigm Stand by having the coupling mechanism to include a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, as taught by Kiser, and providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since the references teach alternate conventional telescoping members structures, thereby providing structure as claimed. In regard to a seal member, it would have been obvious and well within the level of one skill in the art to provide the stand of Paradigm Stand with a seal member in order to prevent dirt from entering the telescoping members.

7. Claims 8, 24, 36, and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Paradigm Stand, as modified, as applied to claims 1, 19, 34, and 38 above, and further in view of USP 5,769,396 to Tischendorf.

Paradigm Stand, as modified, discloses all the elements as discussed above except for the clevis is removable.

Tischendorf discloses a stand comprising a base, a lift platform, an actuating lever, and a removable clevis; wherein the removable clevis allows a more compact stand in the storage configuration. Therefore, it would have been obvious to modify the structure of Paradigm Stand, as modified, by having the clevis being removable in order to provide a more compact stand in the storage configuration, as taught by Tischendorf, since both teach alternate conventional stand structure, used for the same intended purpose, thereby providing structure as claimed.

8. Claims 13, 15, 17-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Paradigm Stand in view of USP 849,403 Kiser, USP 5,769,396 to Tischendorf and German 2,601,223 to Peddinghaus.

Paradigm Stand, as stated in paragraph #4 above, discloses all the elements recited in the above listed claims 13, 16, and 18, including the claimed limitation of the actuating lever operatively communicating with the support sleeve to allow the lift platform to be adjusted to a plurality of heights, i.e., the first height position of rest and the second height position of use. The differences being that it does not disclose a collar removably attached and adjustably positionable at a plurality of positions along

the height of the support sleeve, the clevis is removable and a self-lubricating member, said self-lubricating member be either a sleeve or at least one strip.

Kiser teaches the idea of a height adjustable stand comprising two cylindrical support sleeves slidable relative to each other, a coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, an operating lever b9 pivotally mounted in the collar to adjust the height of the stand. Therefore, it would have been obvious to modify the structure of Paradigm Stand by having the coupling mechanism to include a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, as taught by Kiser, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed.

Tischendorf discloses a stand comprising a base, a lift platform, an actuating lever, and a removable clevis; wherein the removable clevis allows a more compact stand in the storage configuration. Therefore, it would have been obvious to modify the structure of Paradigm Stand by having the clevis being removable in order to provide a more compact stand in the storage configuration, as taught by Tischendorf, since both teach alternate conventional stand structure, used for the same intended purpose, thereby providing structure as claimed.

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Paradigm Stand, as modified, by providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed.

9. Claims 1-7, 9-10, 12, 19-21, 23, 25-30, 33-35, 37-38, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moose Aluminum Lift Stand in view of USP 849,403 Kiser and German 2,601,223 to Peddinghaus.

Moose Aluminum Lift Stand discloses a stand comprising a base, a support member interconnected to the base and extending upwardly therefrom, a support sleeve/slidable member having at least a top surface and in slidable telescopic cooperation with the support member, a lift platform associated with the top surface of the support sleeve, a coupling mechanism interconnected to the support sleeve/slidable member, an actuating lever interconnected to the coupling mechanism, a coupling member interconnected to the base, at least one link member pivotally interconnected to the coupling member and the actuating lever, and wherein the stand can be selectively positioned between a first position of rest and a second position of use. The different being that Moose Aluminum Lift Stand does not disclose the coupling mechanism including a collar removably attached and adjustably positionable at a

plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, a self-lubricating member, said self-lubricating member be either a sleeve or at least one strip, a clevis (instead of a coupling member) interconnected to the base, and a seal member.

Kiser teaches the idea of a height adjustable stand comprising two cylindrical support sleeves slidable relative to each other, a coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, an operating lever ***b9*** pivotally mounted in the collar to adjust the height of the stand.

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Moose Aluminum Lift Stand by having the coupling mechanism to include a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener such that the coupling mechanism can be removably attached and adjustably positionable at a plurality of positions along the height of slidable member, as taught by Kiser, and

providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since the references teach alternate conventional telescoping members structures, thereby providing structure as claimed. In regard to a clevis (instead of a coupling member), it is well known in the art to use a clevis for attaching a lever of a lift stand to its base in order to facilitate connecting the lever to the base. In regard to a seal member, it would have been obvious and well within the level of one skill in the art to provide the stand of Moose Aluminum Lift Stand with a seal member in order to prevent dirt from entering the telescoping members.

10. Claims 8, 24, 36, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moose Aluminum Lift Stand, as modified, as applied to claims 1, 19, 34, and 38 above, and further in view of USP 5,769,396 to Tischendorf.

Moose Aluminum Lift Stand, as modified, discloses all the elements as discussed above except for the clevis is removable.

Tischendorf discloses a stand comprising a base, a lift platform, an actuating lever, and a removable clevis; wherein the removable clevis allows a more compact stand in the storage configuration. Therefore, it would have been obvious to modify the structure of Moose Aluminum Lift Stand, as modified, by having the clevis being removable in order to provide a more compact stand in the storage configuration, as taught by Tischendorf, since both teach alternate conventional stand structure, used for the same intended purpose, thereby providing structure as claimed.

11. Claims 13, 15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moose Aluminum Lift Stand in view of USP 849,403 Kiser, USP 5,769,396 to Tischendorf and German 2,601,223 to Peddinghaus.

Moose Aluminum Lift Stand discloses all the elements recited in the above listed claims 13, 16, and 18, including the claimed limitation of the actuating lever operatively communicating with the support sleeve to allow the lift platform to be adjusted to a plurality of heights, i.e., the first height position of rest and the second height position of use. The differences being that it does not disclose a collar removably attached and adjustably positionable at a plurality of positions along the height of the support sleeve, a clevis interconnected to the base and being removable, and a self-lubricating member, said self-lubricating member be either a sleeve or at least one strip.

Kiser teaches the idea of a height adjustable stand comprising two cylindrical support sleeves slidable relative to each other, a coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, an operating lever b9 pivotally mounted in the collar to adjust the height of the stand. Therefore, it would have been obvious to modify the structure of Moose Aluminum Lift Stand by having the coupling mechanism to include a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to

each other by at least one fastener, as taught by Kiser, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed.

In regard to a clevis (instead of a coupling member), it is well known in the art to use a clevis for attaching a lever of a lift stand to its base in order to facilitate connecting the lever to the base.

Tischendorf discloses a stand comprising a base, a lift platform, an actuating lever, and a removable clevis; wherein the removable clevis allows a more compact stand in the storage configuration. Therefore, it would have been obvious to modify the structure of Moose Aluminum Lift Stand by having the clevis being removable in order to provide a more compact stand in the storage configuration, as taught by Tischendorf, since both teach alternate conventional stand structure, used for the same intended purpose, thereby providing structure as claimed.

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Moose Aluminum Lift Stand, as modified, by providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed.

Response to Arguments

12. Applicant's arguments filed 5/13/2008 have been fully considered but they are not persuasive. As stated above in paragraph #2, the Declaration under 37 CFR 1.132 filed 5/13/2008 is insufficient to overcome the rejection of claims 1-10, 12-13, 15, 17-21, 23-30, 33-41 based upon 35 U.S.C. 103(a) as set forth in the last Office action because: The declaration fails to include an acknowledgment by the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT
August 17, 2008

/Hanh V. Tran/
Patent Examiner, Art Unit 3637